

REMARKS/ARGUMENTS

Claim 35, indicated to be allowable, is rewritten in independent form as new claim 36.

The compositional features of the present invention lie in constituents (a) in the proportion of medium-chain fatty acids represent from 5 to 23% by mass of all the fatty acids as constituents of the oil or fat composition, (b) triglycerides having two medium-chain fatty acid residues in the molecule represent from 1 to 20% by mass of all the triglycerides and (c) proportion of long-chain saturated fatty acids are at most 15% by mass of all of the long-chain fatty acids as constituents of the oil or fat composition. Constituent (d) the proportion of triglycerides having three medium-chain fatty acid residues in the molecule represent at most 3% by mass of all the triglycerides as featured in claim 31 is included as a featured additive.

Constituents (a) and (b) bring about, in cooperation, the effect of less accumulation as body fat (see page 1, lines 7-10, page 6, lines 18-25 of the specification; this effect is demonstrated in Example 8).

Constituent (c) provides the stability in low temperatures of the oil or fat composition (see page 7, lines 8-16 of the specification; this effect is demonstrated in Example 9).

Constituent (d) serves to inhibit smoking and foaming at cooking using the oil or fat composition (see page 6, lines 28 to page 7, line 7 of the specification; this effect is demonstrated in Example 9).

Cain's abstract discloses a triglyceride composition containing 1 to 95% by weight of M_2L . This M_2L content overlaps with constituent (b) of the present invention. Another constituent of the triglyceride composition is 5 to 65% by weight of ML_2 ; L is a C_{18} unsaturated fatty acid, and thus the triglyceride composition of Cain satisfies constituent (c) of the present invention. However, Cain does not disclose nor suggest constituent (a) of the present invention, and in the sole example, "the proportion of

medium-chain fatty acids to all the fatty acids as constituents of the oil or fat composition" on "product (SF-2)" is calculated at 28.1% by weight from the table in column 4. From this it is apparent that the triglyceride composition of Cain does not satisfy constituent (a) of the present invention.

The effect of Cain's triglyceride composition is to improve digestibility. This digestibility is measured by the rate of the hydrolysis of a triglyceride composition (column 3, lines 44 to 59). The first effect of the oil or fat composition of the present application is to provide less accumulated as body fat, and this effect is demonstrated by actually measuring the visceral fat and subcutaneous fat through an experiment using an animal (Example 8, particularly Table 6). Good digestibility is not the same as reduced accumulation as body fat. In fact, good digestibility has nothing to do with less accumulation as body fat. This is because where a particular food is less accumulated or not is a problem after it was digested.

The sole rejection made in the current Action is as follows:

"Claims 29-34 are rejected under 35 USC §103(a) as being unpatentable over Baer et al (5,308,640) in view of Cain (5,681,608) and as further evidenced by Chirafisi (4,269,864) or Suwa (5,378,484).

Baer (5,308,640) discloses low greasiness French fries that are fried in oil. At Table 1, samples C and E, reduced calorie fats are shown to contain liquid SPE, solid SPE and medium chain triglyceride. The liquid SPE are defined at column 6, lines 3-38 to include sucrose fatty acid esters and sorbitol fatty acid esters. These liquid SPE's are used in the amount in Table 1. The claims appear to differ from the reference in the suggestion of a particular medium chain triglyceride. Cain teaches a fat product composed of unsaturated long chain fatty acids and medium chain fatty acids (see abstract) in amounts that fall within the range that are set forth in the claims. The product is made from the interesterification of fats (column 3, lines 16-23). It would have been obvious to one having ordinary skill in the art to utilize the MCT of Cain in the oil composition of Baer in order to provide for nutrient fat that can be used as a table oil.

The MCT of Cain is one of a variety of MCT oils that could have been used as table oil in Baer in order to provide for an oil that is suitable for frying. It is appreciated that the oil of Baer is not disclosed to have enhanced antifoaming but the liquid SPE of Baer are also well known emulsifiers in foods. These emulsifiers are also well known anti-foaming agents (see column 6, lines 43-55 of Chirafisi and column 3, lines 47-67 of Suwa (5,378,484). Thus even though there is no disclosure in Baer as to the use of the liquid SPE's as anti-foaming agents, this anti-foaming property would have been inherent to the use of a liquid SPE in Baer."

The rejection is not fairly based on the applied prior art and the reasons given in support for it are incorrect. Although the examiner refers to "Cain's MCT, a closer examination will reveal Cain does not disclose MCT. "MCT" means medium chain triglyceride as described in column 13, lines 7 to 23 of Baer. Therefore, what is meant by the assertion "It would have been obvious to one having ordinary skill in the art to utilize the MCT of Cain in the oil composition of Baer" is unclear as there is no basis in Cain for making such a statement.

Further, since, in Fat Composition C and Fat Composition E in Table I of Baer, to which the examiner refers, the amounts of liquid SPE used are large (76.0% and 85.5% of the whole Fat Composition, respectively), thus even if it were possible to use "Cain's MCT" in place of the "medium chain triglyceride", the invention of the present application could not have been reached. This is because liquid SPEs are liquid sucrose polyesters, and, in the present invention, the proportion of sucrose fatty acid esters is at most only 6% of the whole oil or fat composition.

Furthermore, there is no description nor suggestion in Baer regarding constituents (a), (b) and (c), or the constituents (a), (b), (c) and (d), and in particular effects obtained from them in the invention of the present application. There is no suggestion in Cain either as to constituents (a), (b) and (c), nor constituents (a), (b), (c) and (d), much less any idea of the desirable effects obtained therefrom in the invention of the present application. Therefore, even if both Cain and Baer were combined, under the teachings of Chirafisi and Suwa which only show that the liquid SPEs of Baer "are also well known

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anti-foaming agents", one skilled in the art could never have reached the present invention.

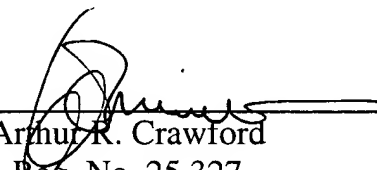
As apparent from the above, the invention of the present application is not unpatentable over Baer et al in view of Cain and as further evidenced by Chirafisi or Suwa, and therefore this rejection under 35 USC §103(a) should be withdrawn.

Reconsideration and favorable action are solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


Arthur R. Crawford
Reg. No. 25,327

ARC:eaw
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100